

**Notice of Allowability**

Application No.

10/726,245

Examiner

Thomas K. Pham

Applicant(s)

AMUNDSON ET AL.

Art Unit

2121

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the request for continued examination filed 9/1/2006.
2. ☒ The allowed claim(s) is/are 1-8,10-19,21-27,29-33 and 35-44.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
- ☐ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other \_\_\_\_\_

***Reasons for Allowance***

1. Claims 1-8, 10-19, 21-27, 29-33 and 34-44 are allowed.
2. The following is an examiner's statement of reasons for allowance:

While Rosen (U.S. Patent No. 6,824,069) discloses a programmable thermostat system for controlling space conditioning equipment including a transparent touch pad juxtaposed over a liquid crystal display to constitute a touch screen for interactive interface with a user. A program stored in the memory directs a CPU to communicate through the input/output unit to selectively establish on the LCD a representation of at least one button at a predetermined XY position. During programming, an alphanumeric message explaining the function of the button is displayed, and icon indicators may be employed to unmistakably associate a message with a button. Rosen does not teach scheduling of an HVAC controller includes asking two or more interview questions of a user via a user interface, each of the two or more interview questions eliciting a numerical time and/or a numerical temperature as a response; and other limitations related to these features in combination with the remaining elements and features of the claimed invention.

And Hoog et al. (U.S. Patent Application Publication No. 2004/0193324) discloses an audible interactive and programmable heating and cooling digital thermostat providing voice setup instructions for easy and precise temperature management during four different time periods in a twenty-four hour day and the option of distinct weekday and weekend programming temperature setpoints. An audio system that provides for audio instruction during programming of the thermostat and can also notify the user of time and ambient temperatures that may be sensed in the heating/cooling system. Hoog et al. does not disclose scheduling of an HVAC

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controller includes asking two or more interview questions of a user via a user interface, each of the two or more interview questions eliciting a numerical time and/or a numerical temperature as a response; and other limitations related to these features in combination with the remaining elements and features of the claimed invention.

The prior art of record fails to teach or fairly suggest to one of ordinary skill in the art at the time of the invention, in conjunction with all the other claimed limitations, programming a schedule of an HVAC controller having a user interface having all the claimed features of applicant's instant invention, specifically including: asking two or more interview questions of a user via a user interface, each of the two or more interview questions eliciting a numerical time and/or a numerical comfort temperature as a response, etc., as set forth in the claims.

Also, there is no motivation to combine the Rosen reference with the Hoog et al. reference to meet these limitations. It is for these reasons that applicant's invention defines over the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thomas Pham*; whose telephone number is (571) 272-3689, Monday to Thursday from 6:30 AM - 5:00 PM EST or contact Supervisor *Mr. Anthony Knight* at (571) 272-3687.

**Thomas Pham**

*Patent Examiner*

A handwritten signature in cursive script, appearing to read 'Thy Pham', written in black ink.

September 15, 2006